



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,896	02/20/2004	Sandra Helton McCain	2003-0753.01	7194
21972	7590	03/21/2006	EXAMINER	
LEXMARK INTERNATIONAL, INC. INTELLECTUAL PROPERTY LAW DEPARTMENT 740 WEST NEW CIRCLE ROAD BLDG. 082-1 LEXINGTON, KY 40550-0999			FAISON, VERONICA F	
		ART UNIT		PAPER NUMBER
		1755		
DATE MAILED: 03/21/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/783,896	MCCAIN ET AL.	
	Examiner	Art Unit	
	Veronica F. Faison	1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 December 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Preamble

The preamble limitation "for inkjet printing comprising at least three separate inks in separate chambers in an inkjet printhead with exit orifices for each said chamber, said ink in said chambers being subject to some moderate entry of ink form other of said chambers" is of no consequence when a composition is the same. Ultimate intended utility does not make a composition patentable. See *In re Pearson*, 181 USPQ 6411.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Takemoto (US Patent 6,075,069).

Takemoto teaches an ink set that comprises a yellow ink, magenta ink having a lower color density containing a magenta colorant, magenta ink having a higher magenta colorant, cyan ink having a lower color density containing a cyan colorant, cyan ink having a higher color density containing a cyan colorant and optionally a black ink (abstract, col. 2 lines 42-49, and col. 3 line 67-col. 4 line 14). The reference further teaches that the colorant may be a dye or pigment, and with a pigment is used that a polymeric dispersant may be used including nonionic dispersant such as acetylene glycol (i.e. Surfynol 465 and Surfynol TG) (col. 6 line 56-col. 7 line 30). The reference

remains silent to the amount of dye used in the composition. The amount of pigment present in the ink composition may be in the range of 0.5 to 25 percent by weight (col. 7 lines 26-28). The reference remains silent to the optical density percentage of the dilute color ink. However it is the position of the Examiner this limitation is considered inherent because there does not appear to be any reason why the cited reference would not contain an ink composition with applicants claimed optical density percentage, because the amount of colorant and other components are similar to the ink composition disclosed in Applicant's specification. The composition as taught by Takemoto appears to anticipate the claimed invention. The composition as taught by Takemoto appears to anticipate the claimed invention.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanaya et al (US Patent 6,482,256).

Kanaya et al teach an ink set comprising a yellow ink, two magenta ink composition different from each other in color density and two cyan ink composition different from each other in color density (col. 6 lines 39-47). The colorant in the yellow ink is in the amount of 0.3 to 6 percent by weight (col. 9 lines 13-15). The magenta ink with higher color density is referred to as the deep magenta ink and the lower color density is referred to as the light magenta ink. The reference teaches that the magenta colorant is present in the amount of 0.5 to 5 percent by weight (col. 9 line 29-col. 10 line 20). The cyan ink with higher color density is referred to as the deep cyan ink and the lower color density is referred to as the light cyan ink (col. 18 lines 52-58). The reference teaches that the amount of cyan colorant present is in the range of 0.4 to 6

percent by weight (col. 19 line 56-col. 20 line 25). The reference also teaches that a black ink may be included in the ink set and the colorant may be dye or pigment such as carbon black (col. 21 lines 9-24). A surfactant may also be added to the ink composition in the amount of 0.1 to 3 percent by weight that include acetylene glycol (i.e. polymeric dispersant including Olfine STG and Olfine E 1010(col. 22 lines 16-56). The reference remains silent to the optical density percentage of the dilute color ink. However it is the position of the Examiner this limitation is considered inherent because there does not appear to be any reason why the cited reference would not contain an ink composition with applicants claimed optical density percentage, because the amount of colorant and other components are similar to the ink composition disclosed in Applicant's specification. The composition as taught by Kanaya et al appears to anticipate the claimed invention.

Response to Arguments

Applicant's arguments filed 12-23-05 have been fully considered but they are not persuasive.

Applicant argues that the reference does not teach dilute inks and black ink each ink separate chambers in the same printhead.

In response to applicant's argument that at least three separate inks in separate chambers in an inkjet printhead with exit orifices for each said chamber, said ink in said chambers being subject to some moderate entry of ink from other of said chambers, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably

distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Veronica F. Faison whose telephone number is 571-272-1366. The examiner can normally be reached on Monday-Thursday and alternate Fridays 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1755

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VFF
2-27-06


M. LORENZO
SUPERVISORY PATENT EXAMINER